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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/720,941 | 11/24/2003 | Donna K. Hodges | 030006 | 5264 |

38516 7590 01/22/2010

AT&T Legal Department - SZ
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

| EXAMINER | |
|---|---|
| TRAN, NOHI V | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2451 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/22/2010 | PAPER |

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BEFORE THE BOARD OF PATENT APPEALS

*AND INTERFERENCES*

Application Number: 10/720,941
Filing Date: November 24, 2003
Appellant(s): Hodges, et al.

Scott P. Zimmerman
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed December 11, 2009 appealing from the Office action mailed November 27, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of invention contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal:

- Feig et al., (2006/0041679) issued on February 23, 2006.
- Hui, (2005/0094725) issued on May 05, 2005.
- Chayes et al., (2004/0267686) issued on December 30, 2004.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feig, US Publication No. 2006/0041679 (hereinafter Feig) in view of Hui, US Publication No. 2005/0094725 (hereinafter Hui), and further in view of Chayes et al., US Publication No. 204/0267686 (hereinafter Chayes).

2. With respect to claims 1, 3, 19, and 20, Feig teaches a method of providing communications services [see abstract], comprising the steps of:

receiving data [= multimedia data] at a computer, the data received as packets of data packetized according to a packet protocol [= UDP/TCP protocol] [figs. 3&5];

segmenting the packets of data into segments [fig.9] according to a segmentation profile stored in memory [= database **60**] [paragraphs 0058-0075];

dispersing at least one of the segments via a network for a subsequent processing service [paragraphs 0010-0022].

However, Feig does not explicitly show receiving results of the subsequent processing service; aggregating the results of the subsequent processing service; and communicating the aggregated results to a client communication device, wherein the aggregated results are formatted according to the segmentation profile.

In a method of providing communications services, Hui discloses receiving results of the subsequent processing service; aggregating the results of the subsequent processing service; and communicating the aggregated results to a client communication device, wherein the aggregated results are formatted according to the segmentation profile [paragraphs 0020-008 and figs.1-5].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui by communicating the aggregated results to a client communication device because

this feature could increase and/or decrease the segment size according to the threshold [Hui, paragraph 0048]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to adjust at least one encoding parameter which is then used to encode the additional video information [Hui, see abstract].

Further, Feig does not explicitly show recursively segmenting the first data stream into segments, such that a characteristic of preceding segment determines how a current segment is segmented.

In a related art, Chayes discloses recursively segmenting the first data stream into segments, such that a characteristic of preceding segment determines how a current segment is segmented [= recursively segmented into cluster of desirable size, paragraphs 0066-0101].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui, and further in view of Chayes by recursively segmenting the first data stream into segments, such that a characteristic of preceding segment determines how a current segment is segmented because this feature improves searching and organization of newsgroups [Chayes, paragraphs 0007]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to optimize utilization of processing bandwidth [Chayes, paragraph 0015].

3. With respect to claim 2, Feig further teaches the step of receiving a request for the first data stream, the request originating from a client communications device [fig.11].

4. With respect to claim 4, Feig further teaches processing at least one of the segments at a network device operating in the communications network [figs.1-2].

5. With respect to claim 5 and 16-18, Feig further teaches wherein the step of dispersing the segments comprises dispersing according to the segmentation profile [see abstract].

6. With respect to claims 7-12, Feig does not explicitly show wherein the step of segmenting the packets of data comprises segmenting according to a dynamic requirement.

In a method of providing communications services, Hui discloses wherein the step of segmenting the packets of data comprises segmenting according to a dynamic requirement [= segment size adjuster **128**] [figs.2&4-5].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui by segmenting according to a dynamic requirement because this feature could increase and/or decrease the segment size according to the threshold [Hui, paragraph 0048]. It

is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to adjust at least one encoding parameter which is then used to encode the additional video information [Hui, see abstract].

7. With respect to claim 6, Feig does not explicitly show wherein the step of segmenting the packets of data comprises segmenting according to a template, the template describing a repetitive structure of the packets of data.

In a related art, Chayes discloses wherein the step of segmenting the packets of data comprises segmenting according to a template [= graph], the template describing a repetitive structure of the packets of data [fig.3].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui, and further in view of Chayes by segmenting according to a template, the template describing a repetitive structure of the packets of data because this feature improves searching and organization of newsgroups [Chayes, paragraphs 0007]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to optimize utilization of processing bandwidth [Chayes, paragraph 0015].

8. With respect to claims 13-14, Feig does not explicitly show wherein the step of segmenting the packets of data comprises segmenting according to a security requirement.

In a related art, Chayes discloses wherein the step of segmenting the packets of data comprises segmenting according to a security requirement [= segmenting into group, paragraphs 0008-0018].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui, and further in view of Chayes by segmenting according to a security requirement because this feature improves searching and organization of newsgroups [Chayes, paragraphs 0007]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to optimize utilization of processing bandwidth [Chayes, paragraph 0015].

9. With respect to claim 15, Feig does not explicitly show wherein the step of segmenting the packets of data comprises segmenting according to a Service Level Agreement.

In a related art, Chayes discloses wherein the step of segmenting the packets of data comprises segmenting according to a Service Level Agreement [= weight, paragraphs 0012, 0015, 0055, and 0088].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui, and further in view of Chayes by segmenting according to a Service Level Agreement because this feature improves searching and organization of newsgroups [Chayes, paragraphs 0007]. It is for this reason that one of ordinary skill in the art at the

time of the invention would have been motivated in order to optimize utilization of processing bandwidth [Chayes, paragraph 0015].

(10) Response to Argument

In the remarks, applicant argued in substance that

**I. Feig with Chayes teaches away by requiring impermissible changes.**

In response to appellant's argument that Feig with Chayes teaches away by requiring impermissible changes, the examiner respectfully disagrees. The appellant obviously attacks references individually without taking into consideration based on the teaching of combinations of references. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. Se In re Keller, 642F. 2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Feig teaches a method of providing communications services [see abstract], comprising the steps of: receiving data [= multimedia data] at a computer, the data received as packets of data packetized according to a packet protocol [= UDP/TCP protocol] [figs. 3&5]; segmenting the packets of data into segments [fig.9] according to a segmentation profile stored in memory [= database **60**] [paragraphs 0058-0075]; dispersing at least one of the segments via a network for a subsequent processing service [paragraphs 0010-0022]. However, Feig does not explicitly show recursively segmenting the first data stream into segments, such that a characteristic of preceding segment

determines how a current segment is segmented. In a related art, Chayes discloses recursively segmenting the first data stream into segments, such that a characteristic of preceding segment determines how a current segment is segmented [= recursively segmented into cluster of desirable size, paragraphs 0066-0101]. The examiner also recognizes that obviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USP Q2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui, and further in view of Chayes by recursively segmenting the first data stream into segments, such that a characteristic of preceding segment determines how a current segment is segmented because this feature improves searching and organization of newsgroups [Chayes, paragraphs 0007]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to optimize utilization of processing bandwidth [Chayes, paragraph 0015]. Therefore, the teachings of Feig with Chayes are related the scope of the claimed as show in the above.

**II. Because Feig with Chayes teaches away, the pending claims cannot be obvious.**

The examiner asserts that the teachings of Feig with Chayes are related the scope of the claimed as show in the above which is the subject matter broadly recited in independent claims. The other pending claims are rejected at least by virtue of their dependency on independent claims and by other reasons set forth above.

(11) Evidence Appendix

None

(12) Related Proceedings Appendix

None

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Patent Examiner
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